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CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
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## UNITED STATES DISTRICT COURT

for the  
Western District of Washington

In the Matter of the Search of

(Briefly describe the property to be searched  
or identify the person by name and address)SMS/Text Communications and Content for Cellular  
Telephone Assigned # 425-760-1796, with Service  
Provided by Celco Partnership DBA Verizon Wireless

Case No.

MS14-125

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):  
SMS/Text communications and content for cellular telephone assigned # 425-760-1796, with service provided by celco partnership DBA Verizon Wireless, more fully described in Attachment A, attached hereto, incorporated herein.

located in the Southern District of New York, there is now concealed (identify the person or describe the property to be seized):

Please see Attachment B, attached hereto and incorporated herein by reference.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☐ contraband, fruits of crime, or other items illegally possessed;  
☐ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section  
Title 21 U.S.C. § 841

Offense Description  
Distribution of a Controlled Substance

The application is based on these facts:

Please see attached Affidavit of Brady Wilson, Special Agent, DEA

- ☒ Continued on the attached sheet.  
☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

*Applicant's signature*

BRADY WILSON, Special Agent, DEA

*Printed name and title*

Sworn to before me and signed in my presence.

Date:

3/29/2014

*Judge's signature*

City and state: Seattle, Washington

DEAN BRETT, U.S. Magistrate Judge

*Printed name and title*

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STATE OF WASHINGTON           )  
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COUNTY OF KING              )

I, BRADY WILSON, a Special Agent with the Drug Enforcement Administration in Seattle, Washington, having been duly sworn, state as follows:

## AFFILIANT BACKGROUND AND INTRODUCTION

1. I am a Special Agent (SA) of the Drug Enforcement Administration (DEA) and have been so employed since February 5, 2010. I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7). I am currently assigned to the Seattle Field Division, Financial Investigations Group. I graduated from Seattle University School of Law with a Juris Doctor and worked as a Deputy Prosecuting Attorney at the Pierce County Prosecutor's Office in Tacoma, Washington prior to my employment with DEA.

2. I attended and graduated from the DEA Office of Training, Basic Agent Training Program where I received approximately 650 hours of specialized drug-related investigative training. This training included drug identification, drug-related investigative techniques, interview and interrogation training, preparation and execution of search warrants, tactical application of drug enforcement, surveillance and electronic monitoring techniques, money laundering investigations, and asset identification and forfeiture.

3. In my capacity as a Special Agent, I conduct investigations of the Controlled Substances Act, that is, Title 21, United States Code, Sections 841, et seq., and related offenses. I have participated in numerous drug and money laundering investigations which have involved the use of a variety of law enforcement techniques, including the use of confidential sources and undercover officers, physical surveillance, electronic surveillance, wire surveillance, pen register and telephone toll analysis, Title III intercepts, investigative interviews, the preparation and service of search and arrest

1 warrants, reviews of taped conversations, and the review of records commonly associated  
2 with drug traffickers and money launderers.

3 4. Pertinent to this application, I have also become familiar with how drug  
4 traffickers commonly use cellular telephones, including the short message service (SMS,  
5 or text message) feature of cellular telephones to further their drug trafficking activities.  
6 Drug traffickers, like anyone engaged in any type of legal or illegal business, have a  
7 compelling need to communicate with both their customers and their suppliers. Based on  
8 my training and experience, drug traffickers use cellular telephones to accomplish that  
9 purpose. It is common to find relevant evidence of trafficking activity when searching  
10 the cellular phones of drug traffickers, and by extension, the stored text communications  
11 related to those phones. Indeed, assuming the correct phone is identified, it is my  
12 experience that it is unusual to not find such evidence.

13 5. The facts in this affidavit come from my personal participation in the  
14 investigation to date, my training and experience, information obtained from other law  
15 enforcement officers and witnesses, surveillance, interviews, and a search warrant  
16 executed by Monroe Police Department (MPD). Individuals referenced in this Affidavit  
17 were identified primarily by using their state-issued driver's licenses and surveillance.  
18 Throughout this affidavit, I have attempted to conceal the identity of individuals that have  
19 provided information herein so as to protect them from potential retaliation while still  
20 trying to provide enough information for a fair analysis of probable cause for the  
21 requested warrant(s)/order(s). For this reason, in some instances I have used the names  
22 of individuals when I believe that information is relevant to the probable cause while in  
23 other instances I have left out the names as not relevant to the probable cause. I have not  
24 included every fact known concerning this investigation. I have set forth the facts that I  
25 believe are necessary for a fair determination of probable cause for the requested  
26 warrant(s)/order(s).

1 **PURPOSE OF AFFIDAVIT**

2 6. This affidavit is being submitted in support of an Application for a Search  
3 Warrant for stored SMS/text content from Cellco Partnership DBA Verizon Wireless for  
4 cellular telephone, 425-760-1796 (the Target Telephone), with service provided by  
5 Cellco Partnership DBA Verizon Wireless. I sent an administrative subpoena to Cellco  
6 Partnership DBA Verizon Wireless on March 11, 2014 requesting subscriber information,  
7 among other things, and am currently awaiting a response. I sent a preservation letter on  
8 March 13, 2014 requesting that it preserve the contents of any SMS/text communication  
9 or file stored by or for the Target Telephone and any associated accounts, pending further  
10 legal process. I confirmed that the preservation letter was received by Cellco Partnership  
11 DBA Verizon Wireless and assigned preservation record number 1703482.

12 7. As set forth below, there is probable cause to believe that 425-760-1796 is  
13 being used by Daniel Clements in violation of Title 21, United States Code, Section 841  
14 (Distribution of a Controlled Substance), and specifically that the SMS/text function of  
15 the Target Telephone is used to facilitate that distribution.

16 **SUMMARY OF PROBABLE CAUSE**

17 **SUMMARY INFORMATION REGARDING DISTRIBUTION OF DRUGS**

18 8. Since approximately July of 2013 I have been investigating illegal drug  
19 activity at a residence owned by Denise Bruce in Monroe, Washington, located at 20518  
20 Corbridge Road SE (the BRUCE RESIDENCE). My investigation began when I learned  
21 from MPD that local Sources of Information had reported that Denise Bruce allowed  
22 Daniel Clements to live at the BRUCE RESIDENCE and to sell illegal drugs out of the  
23 house. During both search warrants served at the residence in late 2013 (described in  
24 greater detail below), MPD officers located items of residency for Clements in one of the  
25 upstairs bedrooms, corroborating this information, including his clothes and other  
26 personal items, as well as notebooks and handwritten letters dated back to at least early  
27 2013.

1           9.     Since approximately May of 2013, MPD has received numerous complaints  
2 from neighbors about drug activity, and MPD surveillance has observed "short stay"  
3 activity at the house, consistent with illegal drug sales and use. "Short stay" traffic  
4 means observing people arriving at a suspected drug distribution location and staying just  
5 long enough to exchange cash for controlled substances.

6           10.    In addition, MPD has conducted traffics stops of a number of individuals  
7 leaving the BRUCE RESIDENCE, and has recovered illegal drugs and drug  
8 paraphernalia from the vehicles. On September 5, 2013, Daniel Clements was arrested  
9 after such a vehicle stop, at which a "heroin kit" (a kit containing the items used to ingest  
10 heroin), syringes, a spoon, small baggies, and heroin "residue" were found in the car.  
11 MPD has also arrested other individuals leaving the BRUCE RESIDENCE after a short-  
12 stay.

13          11.    On October 2, 2013, MPD officer Paul Ryan responded to a purported  
14 heroin overdose at the BRUCE RESIDENCE. Daniel Clements was at the residence at  
15 the time of the overdose.

16          12.    In October of 2013, MPD officers served two search warrants at the  
17 BRUCE RESIDENCE. Officers located heroin, paraphernalia, prescription tablets,  
18 baggies, pipes, a drug ledger, and handwritten notes of drug activity at the house, among  
19 other things. On October 25, 2013, Daniel Clements was arrested at the BRUCE  
20 RESIDENCE after the execution of one of the search warrants.

21          13.    On October 10, 2013, MPD Officers Kornish and Erdmann and I  
22 interviewed Denise Bruce regarding the overdose and drug activity at her residence.  
23 Bruce said, "I assumed what happened...that somebody overdosed." She then told me  
24 that everyone at the house uses illegal drugs and that "Dan [Clements] does have some"  
25 and that he "keeps it in the house." She also admitted that she obtains illegal drugs from  
26 Clements.

27          14.    The surveillance and arrests summarized above, along with the evidence  
28 obtained through two search warrants and the admissions of Denise Bruce, lead me to the

1 conclusion that illegal drug activity is occurring and has occurred at the BRUCE  
2 RESIDENCE.

3 CONTROLLED PURCHASES AND TEXTS MESSAGES

4 15. On February 11, 2014, MPD Officers arrested an individual and conducted  
5 a debrief of that individual regarding her/his knowledge of drug trafficking in and around  
6 Monroe, Washington.<sup>1</sup> The individual indicated that s/he had purchased heroin as  
7 recently as the summer of 2013 from Denise Bruce inside of the BRUCE RESIDENCE  
8 and that s/he had purchased heroin as recently as the first week of February, 2014, from  
9 Daniel Clements inside of the BRUCE RESIDENCE with Denise Bruce present and  
10 involved in the transaction. The individual further indicated that Denise Bruce and  
11 Daniel Clements recently changed their method of operation in response to frequent  
12 police activity and the arrest of individuals leaving the BRUCE RESIDENCE.  
13 Specifically, the individual told officers that Bruce and Clements were not allowing  
14 people that arrived to purchase illegal drugs to leave until after a certain amount of time  
15 had transpired, to avoid the observation of short-stay drug activity by any officers doing  
16 surveillance on their residence. As described above, MPD officers have served two  
17 search warrants on the BRUCE RESIDENCE within the last six months and at least one  
18 of the affidavits for the warrants describes frequent short-stay drug activity as part of the  
19 probable cause for the warrant.

20 Controlled Purchase No. 1

21 16. Soon after the debrief of this individual, MPD Officers utilized her/him  
22 (CS1) to conduct a controlled purchase of heroin from the BRUCE RESIDENCE

23  
24 <sup>1</sup> This individual was initially stopped by MPD for Driving with an Altered Trip Permit. Pursuant to that stop,  
25 officers located stolen property, a small amount of heroin residue and a "heroin kit." In March of 2014, Washington  
26 State Patrol stopped this individual for Expired Tabs and located a small amount of heroin residue, a "heroin kit,"  
27 and a small amount of crystal methamphetamine in the vehicle. This individual has one conviction for Possession  
28 of Drug Paraphernalia and has a pending Theft in the Third Degree charge from mid-2013. This individual has  
agreed to cooperate with law enforcement in consideration for a reduction or dismissal of her/his pending charges.  
I, along with MPD Officers, have been able to corroborate/verify her/his information. Further, this individual has  
provided information regarding her/his actions outside of law enforcement control and has been forthright and  
truthful regarding those actions, despite the fact that this information could jeopardize this individual's Confidential  
Source contract with MPD.

1 (throughout the controlled purchases and attempts described herein, CS1 called and/or  
2 texted Clements on the Target Telephone in order to set up or attempt to set up the  
3 purchases; the content of these calls/texts is detailed below). As set forth herein, CS1  
4 operated under law enforcement surveillance, and much of the information he/she  
5 provided is corroborated by surveillance or by other means.

6 17. I first learned that the Target Telephone is used by Daniel Clements from  
7 MPD Officer Kornish, who indicated to me that the Target Telephone number showed up  
8 on several phone downloads done by MPD for phones seized from individuals involved  
9 in drug trafficking during the timeframe discussed in this affidavit in which the Target  
10 Telephone was listed in the contact lists of those phones for "Dan," or some variation  
11 thereof. This was further verified in the telephone contact list used by CS1, in which s/he  
12 lists the Target Telephone number as associated to "Dan Clemens" [sic]. Further, Officer  
13 Kornish indicated to me that, while CS1 has had verbal contact with Clements on the  
14 Target Telephone during these controlled purchases and attempts, he has heard the  
15 individual speaking on the Target Telephone, and has identified that person as Daniel  
16 Clements.

17 18. MPD Officers indicated to me that CS1 was searched and made free of any  
18 contraband and/or currency other than what was provided by MPD officers for the  
19 purpose of purchasing heroin from Daniel Clements inside of the BRUCE RESIDENCE.  
20 MPD officers further indicated that they observed CS1 walk directly to the BRUCE  
21 RESIDENCE, enter, and remain inside for approximately 10 minutes. After  
22 approximately 10 minutes, MPD officers indicated that CS1 emerged from the BRUCE  
23 RESIDENCE, returned directly to controlling officers, and turned over a small piece of  
24 suspected heroin (later field tested positive). Nothing else was found following a search  
25 of CS1. Following the controlled purchase, CS1 indicated that s/he went into the  
26 BRUCE RESIDENCE where s/he met with Daniel Clements who broke off her/his piece  
27 of heroin from a larger piece, and indicated that Clements had approximately one ounce  
28 of heroin on his person. Denise Bruce was not present at the BRUCE RESIDENCE

1 when this controlled purchase occurred.

2 Controlled Purchase No. 2

3 19. Approximately one week later, investigators conducted another controlled  
4 purchase of heroin from the BRUCE RESIDENCE using CS1. MPD Officers Kornish,  
5 Erdmann, and Irving, along with DEA Special Agent (SA) Joseph Peres, met with CS1  
6 prior to attempting the controlled purchase, searched, and debriefed CS1. No items of  
7 contraband were located on CS1. Following the search and debriefs, SA Peres and I,  
8 along with MPD Officer Erdmann, established surveillance at the BRUCE RESIDENCE.  
9 Several minutes after establishing surveillance, Officer Erdmann observed Denise Bruce  
10 leave the residence with a male in a vehicle. Approximately 45 minutes later, Officer  
11 Erdmann observed Bruce and the male return and enter the residence. During this  
12 timeframe, CS1 placed several calls to Clements in an attempt to set up the purchase;  
13 however, Clements did not answer any of CS1's calls (CS1 was using a different phone  
14 provided by MPD).

15 20. Approximately 15 minutes after Bruce returned, Officer Erdmann observed  
16 CS1 knock on the door of the BRUCE RESIDENCE. After approximately one minute, I  
17 heard, via the transmitting device that CS1 was wearing, a male voice at the door. At that  
18 same time, Officer Erdmann indicated that he saw a male answer the door. I heard CS1  
19 say, "I called and left a message" in response to the male's question of whether s/he  
20 called first. I know that CS1 only left a message for Clements and therefore believe that  
21 the male then said, regarding Clements, "He told me to tell you...uh...to make sure and  
22 get a hold of him first" and that, "I'm just the door guy." After this, the male appeared to  
23 close the door and re-enter the house.

24 21. Several minutes later, Officer Erdmann indicated that the door opened back  
25 up and CS1 went inside. Soon after CS1 entered, I heard a male voice (later identified as  
26 Daniel Clements, from a debrief of CS1) say "[...] tried calling me a bunch of times [...]  
27 restricted." (The CS had attempted to contact Clements multiple times via telephone  
28 from a restricted number.) I also heard an unidentified female voice say, "Don't go in

1 there." After that, for approximately the next 3-4 minutes, I could hear conversation, and  
2 specifically heard questioning from Clements about how CS1 got to the house and  
3 questions about the location of CS1's ride away from the BRUCE RESIDENCE  
4 following the drug transaction.

5 22. After approximately 5 minutes inside the house, CS1 left out the front door.  
6 At about the time CS1 left, Officer Erdmann indicated that he believed that blinds to one  
7 of the front windows cracked open and that it appeared that somebody was looking out  
8 the window at CS1. Ultimately CS1 was watched by MPD Officers until s/he met back  
9 up with Officers Kornish and Irving where s/he turned over the purchased, suspected  
10 heroin (this later field tested positive and weighed approximately .6 grams). No other  
11 items of contraband were located on CS1. CS1 indicated that he heard Denise Bruce's  
12 voice in her bedroom during this transaction. CS1 indicated that s/he wanted to go into  
13 Denise Bruce's bedroom to talk to Denise Bruce but was told by one of the occupants to  
14 not go in there. CS1 also indicated that the door to Daniel Clements' bedroom was open  
15 during the purchase.

16 Controlled Purchase No. 3 (Attempted)

17 23. A week later, investigators attempted a controlled purchase from the  
18 BRUCE RESIDENCE using CS1 but did not succeed in buying heroin. However,  
19 Denise Bruce texted CS1 several times from her cellular telephone, explaining to CS1  
20 how the purchase could not be made at that time because "Nobody here has anything"  
21 and signed the text, "--Denise~"; Bruce also texted CS1 that she did not know when  
22 Clements would re-up because he was sleeping.<sup>2</sup>

23 Controlled Purchase No. 4 (Attempted)

24 24. In early March of 2014, investigators utilized CS1 again to attempt to  
25 purchase heroin from the BRUCE RESIDENCE. On the first attempt, Daniel Clements  
26

27 <sup>2</sup> I am not seeking a search warrant for stored content text messages for the cellular telephone of Denise Bruce  
28 because Sprint does not provide that service to law enforcement; Denise Bruce's cellular telephone is a Sprint  
phone.

1 indicated to CS1 via a voice call from the Target Telephone that he was "heading out to  
2 Everett right now to get some more"; investigators also learned, via a text from Denise  
3 Bruce, that she was not home and would likely not be home that evening. As a result, the  
4 operation was suspended until the next day.

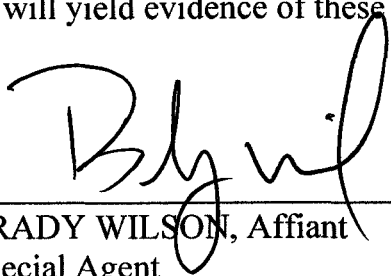
5 Controlled Purchase No. 5 (Attempted)

6 25. The following day, investigators attempted a controlled purchase from the  
7 BRUCE RESIDENCE using CS1 but did not succeed in buying heroin. Initially on that  
8 day, there were no responses from Denise Bruce or Daniel Clements to CS1's contacts.  
9 However, later that day, Denise Bruce texted CS1, "Dan is out. PLEASE DON'T COME  
10 BY UNTIL YOU HEAR FROM US." Several hours later, CS1 got a text from Daniel  
11 Clements using the Target Telephone wherein Clements said, "Im leaving to go get some  
12 rite now. 2 hrs. or so." About two hours later, investigators observed Daniel Clements  
13 leave with a female, a known drug user, and drive to a parking lot of a local store in  
14 Everett, Washington. There, I observed Clements jump out of the passenger seat of the  
15 vehicle he was riding in and meet with a then-identified white male in the white male's  
16 SUV. Surveillance was briefly lost, but I later observed Clements north of the first  
17 parking lot standing in a parking lot of a bar in Everett speaking with an unidentified  
18 Hispanic male and unidentified white male. Shortly after observing this, I observed  
19 Clements getting picked up by the female that drove him to Everett. Clements and the  
20 female then left Everett.

21 26. About an hour upon leaving Everett, and in response to CS1, Clements  
22 texted CS1 using the Target Telephone, "Dnt have any." Shortly thereafter, CS1 asked if  
23 Clements had re-supplied, and Clements texted CS1 using the Target Telephone, "Yea,  
24 and I just sold out!! Crazy!!", so the operation was cancelled. However, shortly after the  
25 deal was cancelled, according to CS1, Denise Bruce texted CS1 and said that Daniel  
26 Clements was going to re-up and then texted CS1 when Clements returned. However, no  
27 controlled purchase was completed.  
28

1 CONCLUSION

2 27. Based upon the above-stated facts there is probable cause to believe that  
3 **425-760-1796** is being used in violation of Title 21, United States Code, Section 841  
4 (Distribution of a Controlled Substance), and specifically that, the SMS/text function of  
5 **the Target Telephone**, is used to facilitate that distribution. Specifically, I believe from  
6 these facts, that Daniel Clements uses the SMS/text function of **the Target Telephone** to  
7 arrange for the sale of illegal drugs and to arrange for his re-supply of those drugs. I  
8 further respectfully submit that there is probable cause to believe that a search of the  
9 stored SMS/text messages in Verizon's possession will yield evidence of these violations.

10  
11   
12 \_\_\_\_\_  
13 BRADY WILSON, Affiant  
14 Special Agent  
15 Drug Enforcement Administration

16  
17 SUBSCRIBED AND SWORN before me this 24 day of March, 2014.

18  
19   
20 \_\_\_\_\_  
21 THE HONORABLE DEAN BRETT  
22 United States Magistrate Judge  
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ATTACHMENT A

1. Items to be to be Provided by Cellco Partnership DBA Verizon Wireless for Search:

All electronically stored SMS/text content associated with cellular telephone 425-760-1796, maintained, controlled, or operated by Cellco Partnership DBA Verizon Wireless, related to preservation record number 1703482.

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**ATTACHMENT B**

**1. Items to be to be Provided by Cellco Partnership DBA Verizon Wireless for**

**Search:**

All electronically stored SMS/text content associated with cellular telephone 425-760-1796, maintained, controlled, or operated by Cellco Partnership DBA Verizon Wireless, related to preservation record number 1703482 including but not limited to:

- a. All subscriber records associated with the specified account, including 1) name; 2) address; 3) length of service; 4) detailed billing records/logs; 5) means and source of payment; and 6) lists of all related accounts;
- b. All text, picture or video messages sent and received by subscriber.

**2. Items to be Seized**

All electronically stored SMS/text content associated with cellular telephone 425-760-1796, maintained, controlled, or operated by Cellco Partnership DBA Verizon Wireless, related to preservation record number 1703482 that constitutes evidence, fruits and instrumentalities of violations of the Controlled Substances Act; specifically, Distribution of a Controlled Substance, contrary to Title 21, U.S.C. § 841.

- a. All subscriber records associated with the specified account, including 1) name; 2) address; 3) length of service; 4) detailed billing records/logs; 5) means and source of payment; and 6) lists of all related accounts;
- b. Text, picture or video messages sent and received by subscriber related to any and all crimes listed above.